

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

SCOTTSDALE INSURANCE COMPANY,
an Ohio corporation,

Plaintiff,

v.

SIX STARS CONSTRUCTION, LLC, an
Oregon Limited Liability Company; and
ROBERT COLE TOZER, Personal
Representative of the Estate of Joel Valdez
Covarrubias, Deceased,

Defendants.

Case No. 3:23-cv-713-YY

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Youlee Yim You issued Findings and Recommendation in this case on September 19, 2023. Judge You recommended that this Court grant Plaintiff's motion for entry of partial default judgment against Defendant Six Stars Construction, LLC on Plaintiff's duty to defend. Per the stipulation between Plaintiff and Defendant Robert Cole Tozer, the personal representative of the estate of Joel Valdez Covarrubias, Judge You stayed Plaintiff's claim regarding its duty to indemnify Defendant Six Stars. No party filed objections to Judge You's Findings and Recommendation.

Under the Federal Magistrates Act (Act), the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C.

§ 636(b)(1). If a party objects to a magistrate judge’s findings and recommendations, “the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge’s findings and recommendations if objection is made, “but not otherwise”).

Although review is not required in the absence of objections, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate judge’s findings and recommendations for “clear error on the face of the record.”

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Judge You’s Findings and Recommendation for clear error on the face of the record. No such error is apparent. Accordingly, the Court ADOPTS Judge You’s Findings and Recommendation, ECF 20. The Court GRANTS Plaintiff’s Motion for Entry of Default Judgment Re Duty to Defend Six Stars, ECF 17.

IT IS SO ORDERED.

DATED this 5th day of October, 2023.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge